

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF INDIANA  
FORT WAYNE DIVISION

IN THE MATTER OF:

JENNIFER L. RORK

Debtor

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CASE NO. 05-18667

**DECISION AND ORDER**

At Fort Wayne, Indiana, on December 1, 2005.

The debtor in this chapter 7 case is proceeding pro se and has filed a motion asking the court to waive the requirement of pre-petition credit counseling in one fashion or another. See, 11 U.S.C. § 109(h). The court is not certain whether she is asking the court to completely waive that requirement, as permitted by § 109(h)(4), or merely to allow her to obtain the required counseling during the 30 days after the petition, as permitted by § 109(h)(3).

To the extent the debtor may be requesting the opportunity to obtain credit counseling after the petition, her motion is insufficient. It fails to identify any “exigent circumstances” which would necessitate the immediate filing of the bankruptcy petition, rather than in the near future after the debtor has received credit counseling. 11 U.S.C. § 109(h)(3)(A)(i). Furthermore, even if the debtor had adequately described such circumstances, the motion fails to indicate that the debtor unsuccessfully attempted to obtain credit counseling prior to the petition. See, 11 U.S.C. § 109(h)(3)(A)(ii). If the debtor is requesting a complete waiver of the credit counseling requirement, her motion is also insufficient.<sup>1</sup> Section 109(h)(4) allows that requirement to be

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<sup>1</sup>Although § 109(h)(4) requires notice and a hearing before the court completely waives the requirement of credit counseling, because the debtor’s request is insufficient as a matter of law the

dispensed with only if the debtor is incapable of making rational decisions with respect to their financial responsibilities, physically unable to participate in any type of credit counseling, or on active military duty in a combat zone. Debtor's motion makes no such allegations and therefore advances absolutely no basis for waiving the requirement.

Debtor's motion for a waiver of the credit counseling requirement of § 109(h) is DENIED. Based upon the present record, debtor is not eligible for relief under the Bankruptcy Code. Debtor shall file any amended certification, which must fully comply with all of the requirements of 11 U.S.C. § 109(h)(3)(A)(i-iii), within fourteen (14) days of this date. The failure to do so will result in the dismissal of this case without further notice or hearing.

SO ORDERED.

/s/ Robert E. Grant  
Judge, United States Bankruptcy Court

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court need not hold a hearing before denying the request.